

# Courts should move quickly to block Initiative 1366

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Seattle Times illustration

**The passage of problematic Initiative 1366 will complicate efforts to improve Washington's school funding. A court should move quickly to put this measure out of its misery.**

By [Seattle Times editorial board](#)

*The Seattle Times*

DESPITE Initiative 1366's success in last week's election, the fate of Tim Eyman's latest initiative is far from clear.

Voters shouldn't be surprised.

Although I-1366 masterfully tapped into Washingtonians' frustration with spendthrift lawmakers, its Rube Goldberg scheme for limiting tax increases was deemed unconstitutional by a judge months before the election.

The measure went to the ballot anyway because judges declined to intervene in the initiative process. Yet I-1366 appears mortally wounded, limping forward as it waits for a court to put it out of its misery.

This should be done as soon as possible, ideally by the state Supreme Court, and definitely before the Legislature convenes Jan. 11.

The upcoming session is a particularly bad time for this initiative. Lawmakers have critical and complex education-funding issues to resolve when they convene in Olympia.

The last thing they need is to start the session sorting out a divisive tax measure that will exacerbate partisanship, strain funding questions and consume their attention until its “poison pill” deadline on April 15.

That’s when I-1366 is scheduled to slash the sales tax if the Legislature has not yet started the process of amending the constitution to require a supermajority to approve tax increases. The measure would automatically cut funding for education and other programs by more than \$1.4 billion a year.

How does this serve the greater good in Washington state?

On the surface, I-1366 has appeal, demanding that taxes not be increased without a supermajority, or two-thirds vote, by the Legislature. That should sound familiar, since state voters have approved a series of similar initiatives since 1993.

That ended in 2013 when the state Supreme Court ruled that requiring a supermajority vote for tax increases violates the state constitution. The court said framers of the constitution “were particularly concerned about a tyranny of the minority,” in which a small group could control and block legislation. So the constitution calls for only a simple majority to approve most legislation.

I-1366’s irresponsible flaw is that it would cut needed spending.

Lawmakers were [just starting to make progress in June](#) on substantial education-funding reform, after struggling for years to fix a system that shortchanges kids in less prosperous school districts.

A bipartisan group created a framework for moving forward and tentatively agreed that the state will need an additional \$3.5 billion to adequately and equitably fund schools. The group did not agree on the means.

That didn't go far enough to satisfy the state Supreme Court, which is holding the Legislature in contempt for not finishing its job and making improvements called for by the court's landmark 2012 McCleary ruling.

Compounding the McCleary challenge, the court in September also rejected the state's charter-school funding approach, giving the Legislature another tricky school problem that must be resolved in the next session.

Opponents of I-1366 — a coalition of Democratic lawmakers, parents and unions — will huddle this week with lawyers and decide how to proceed.

Options include resuming and expanding the lawsuit in King County Superior Court, where Judge Dean Lum in August said the measure appears unconstitutional and is likely to be invalidated.

A quick ruling by Lum could put I-1366 on hold until it's sorted out by the Supreme Court, according to Paul Lawrence, the opponents' lead counsel.

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Justices, who have taken exceptional action to force the Legislature to improve school funding, should take it upon themselves to put I-1366 on top of their agenda.

Remember that in August, the state Supreme Court justices were so upset about the Legislature's slow pace on school funding they took “immediate action” and began fining the state \$100,000 per day until significant progress is made.

Judicial dawdling on I-1366 will hurt the Legislature's chances of finishing that job. Do not delay.

*Editorial board members are editorial page editor Kate Riley, Frank A. Blethen, Ryan Blethen, Brier Dudley, Mark Higgins, Jonathan Martin, Thanh Tan, Blanca Torres, William K. Blethen (emeritus) and Robert C. Blethen (emeritus).*